

Regulation 5200. Annotations.

(a) Definitions. For purposes of this regulation, the following definitions shall apply:

(1) “Annotations” ~~[that]~~ are published in either the Business Taxes Law Guide or the Property Taxes Law Guide [and] are summaries of the conclusions reached in selected legal rulings of counsel.[Annotations do not embellish or interpret the legal rulings of counsel which they summarize and do not have the force and effect of law.]

(2) “Legal ruling of counsel” means a legal opinion written and signed by the Chief Counsel or an attorney who is the Chief Counsel’s designee, addressing a specific tax application inquiry from a taxpayer or taxpayer representative, a local government agency, or board staff.

(3) “Current Legal Digest” means a publication containing drafts of new annotations proposed to be added, and/or annotations proposed to be amended or deleted in the Business Taxes Law Guide or Property Taxes Law Guide.

(4) “Tax” means any tax, fee, surcharge, assessment, assessment review, or exemption program administered by the Board or any tax over which the Board has oversight or advisory responsibility.

(5) “Taxpayer” means person liable for the payment of any tax as the term tax is defined above.

(6) “Board” means the State Board of Equalization.

(b) [Elements of Annotated Legal Rulings of Counsel. In order to qualify for annotation, a legal ruling of counsel must include the following elements:

(1) A summary of pertinent facts,

(2) An analysis of the issue(s),

(3) References to any applicable statutes, regulations, or case law, and

(4) A conclusion supported by the analysis of the issue(s).]

~~[(b)(c)]~~ Use of Annotations.

(1) Annotations provide notice of the existence of and conclusions reached in selected legal rulings of counsel regarding the application of the statutory law, regulatory law, or judicial opinions to a particular factual circumstance.

(2) Annotations are a research tool to locate selected legal rulings of counsel[and thus provide guidance regarding the interpretation of statutes and Board regulations as applied by the Board staff to specific factual situations in legal ruling of counsel].

~~(3) Annotations and the legal rulings of counsel they summarize are not regulations, not considered authority for the application of law, and, except as provided in Regulation 1705, are not binding upon taxpayers, members of local government agencies, board staff, or the Board.~~

[Except as provided in Regulation 1705, following the advice provided in an annotation is not reasonable reliance upon written advice for purposes of obtaining relief from a failure to pay tax, interest and penalty.]

~~[(e) Elements of Annotated Legal Rulings of Counsel. A legal ruling of counsel that is annotated must include the following elements:~~

- ~~-(1) A summary of pertinent facts,~~
- ~~-(2) An analysis of the issue(s),~~
- ~~-(3) References to any applicable statutes, regulations, or case law, and~~
- ~~-(4) A conclusion supported by the analysis.]~~

(d) Publication of Annotations.

(1) Before new annotations are added, or existing annotations are amended or deleted, the Board shall publish the proposed changes in a Current Legal Digest and shall provide interested persons not less than 30 days to comment on and, if necessary, challenge the proposed changes.

(2) Any person may request, and shall be entitled to receive, Current Legal Digests. Requests to be added to the mailing list to receive Current Legal Digests may be directed to the Board's Legal Division.

(e) Request for Depublication of an Annotation. An annotation published in the Business Taxes Law Guide or the Property Taxes Law Guide believed to be in error and/or appearing to conflict with another annotation may be depublished using the following procedure:

(1) A request for depublication of an annotation shall be directed to the Chief Counsel.

(2) A request for depublication of an annotation shall be approved or denied by the Chief Counsel within sixty (60) days from the date the request is received.

(3) If a request for the depublication of an annotation is approved by the Chief Counsel, the Board shall publish the proposed depublication in a Current Legal Digest.

(4) If a request for the depublication of an annotation is denied, the requestor may bring the request before the Board's Business Taxes or Property Taxes Committee for consideration.

(f) Copies of Legal Rulings of Counsel. Any person may request, and shall be entitled to receive, a copy of a legal ruling of counsel, with confidential taxpayer information excised, that has been annotated in the Business Taxes Law Guide or Property Taxes Law Guide. Requests may be directed to the Board's Legal Division[~~-or Board's fax-back service~~].

Note: Authority: Section 7051, Revenue and Taxation Code.

Reference: Sections [15606(c) and (e) Government Code;] sections 7051, 7084, [8262, 9262, 13170, 30458.2, 32462, 40202, 41162, 43513, 45858, 46613, 50156.2,

55323, 6023 Revenue and Taxation Code and Sales and Use Tax Regulation 1705, Relief
from Liability,]